

Court of Appeals, State of Michigan

ORDER

Charles Cole v Robert McDowell

Docket No. 295924

LC No. 2009-000097-NM

Deborah A. Servitto
Presiding Judge

Henry William Saad

Elizabeth L. Gleicher
Judges

The Court, acting under MCR 7.203(F)(2), orders that the motion for reconsideration is DENIED. We note that the adoption of what is commonly termed a "prison mailbox rule" in relation to the filing of claims of appeal in criminal cases by the addition of MCR 7.204(A)(2)(e) to the Michigan Court Rules will not become effective until May 1, 2010 pursuant to the February 25, 2010 order of the Michigan Supreme Court in ADM File No. 2009-07. Further, even if MCR 7.204(A)(2)(e) were in effect, it would not apply to the present appeal because this is a civil appeal and, in addition, that new subrule will only apply to claims of appeal "from decisions or orders rendered on or after March 1, 2010." Moreover, the routine assignment of a Court of Appeals docket number based on the filing of a claim of appeal does not establish that this Court has jurisdiction over a purported appeal of right.

We also note that the dismissal of the claim of appeal does not entitle appellant to a refund of the initial partial filing fee paid in this case or relieve him from eventual responsibility for payment of the remainder of the \$375 entry fee through deductions from his prisoner account. See MCL 600.2963.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 06 2010

Date

Sandra Schultz Mengel
Chief Clerk